

### **REMARKS/ARGUMENTS**

In the current application, claims 1-20 are pending. Claims 1, 5 and 15 have been amended as outlined above. For at least the reasons outlined below, this application is in condition for allowance, and a notice of allowance is respectfully requested.

#### **Rejection pursuant to 35 U.S.C. § 112**

Claims 1-20 were rejected under 35 U.S.C. § 112 for failing to comply with the written description and for failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention. Applicant submits that these rejections are inappropriate. Further, the amendments above and comments outlined below show how these claims meet the requirements of 35 U.S.C. § 112.

Claims 1-20 were first rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description. Specifically, this rejection alleged that the “open” channels, and the “slidable” nature of the massage tool within the chambers were not adequately described.

In response, Applicant directs the Examiner’s attention to paragraphs [0019] and [0020] wherein the construction of the channels is more fully described. Referring to these paragraphs, along with Figs. 2 and 3, it is clear that the channels are formed by creating seams between two layers of material. Due to the placement of seams, the channels themselves extend across the entire back of the garment shown in Fig. 3. The channel of this structure is inherently “open” along its entire length. Further, any existing massage tool would be slidable, as would be well understood by those skilled in the art. As such, Applicant respectfully submits that the claims do meet the requirements of § 112, first paragraph.

Next, claims 1-20 were rejected under 35 U.S.C. § 112, second paragraph, for allegedly failing to particularly point out and claim the subject matter which Applicant regards as the invention.

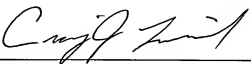
For further clarity, Applicant has made certain modifications to claims 1, 5 and 15 to better specify the nature of the channels involved in the present invention. As discussed above, paragraphs [0019] and [0020] of the detailed description adequately describe the nature of the channels, and their construction. Further, the amendments referenced above further clarify the positioning of the channels as outlined in claim 1, extending across the back of the user. Applicant submits that the claims listed above, do sufficiently point out and claim Applicant's invention.

#### **CONCLUSION**

Based on the foregoing, Applicant respectfully asserts that the claimed invention meets the requirements of 35 U.S.C. § 112. Applicant further submits that, for at least the reasons stated above, all pending claims are allowable over the art of record and respectfully requests that a Notice of Allowance be issued in this case. If the Examiner believes that a teleconference would be of value in expediting the allowance of the pending claims, the undersigned can be reached at the telephone number listed below.

If any fees are due in connection with the filing of this paper, the Commissioner is hereby authorized to charge or credit any such fees or overpayment to Deposit Account No. 50-1901 (Reference No. 22330-301).

Respectfully submitted,

By   
Craig J. Lervick, Reg. No. 35,244  
Customer No. 34205

OPPENHEIMER, WOLFF & DONNELLY LLP  
45 South 7th Street, Suite 3300  
Minneapolis, MN 55402  
Telephone No. (612) 607-7387  
Facsimile No. (612) 607-7100